

**TOWN OF COMOX**

**BYLAW NO. 1721**

**A BYLAW TO REGULATE THE DISCHARGE OF FIREWORKS IN THE TOWN OF COMOX**

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In open meeting assembled the Council of the Town of Comox enacts as follows:

**1. Title**

This Bylaw may be cited as the Comox Fireworks Regulation Bylaw, 2012.

**2. Interpretation**

The following definitions apply to this Bylaw:

- (a) "Bylaw Enforcement Officer" means the Bylaw Enforcement Officer, Corporate Officer, Deputy Corporate Administrator and Fire Chief for the Town of Comox;
- (b) "Fire Chief" means the person appointed from time to time as the Fire Chief of the Fire Department and that person's representative;
- (c) "Fireworks" means Subdivisions 1, 2 and 5 of Division 2, Class 7 fireworks in the Explosives Regulation (Canada) or its successor regulation but does not include sparklers, Christmas crackers, caps for toy guns or model rocket engines.
- (d) "Fire Department" means the Town of Comox Fire Department;
- (e) "Fireworks Safety Plan" means a site plan including details of the location, duration and safety measures in place for the event for which a Fireworks Permit is required.
- (f) "Fireworks Supervisor" means a person possessing either a valid Level 1 or Level 2 Fireworks Supervisor Certificate, issued by the Explosives Regulatory Division of Natural Resources Canada, and does not include a person possessing only an Apprentice Certificate;
- (g) "Fireworks Permit" means a current and valid permit issued by the Fire Chief pursuant to Section 5 of this Bylaw for the purpose of possessing, detonating, discharging or otherwise using fireworks permitted by this Bylaw;

- (h) Fire Prevention Officer” means any person appointed by the Fire Chief to act as Fire Prevention Officer;
- (i) “Incident” means any of the following occurrences to which the Fire Department has responded:
  - (i) fire,
  - (ii) explosion,
  - (iii) a situation where a fire or explosion has occurred or is imminent, or
  - (iv) any other situation presenting a danger or possible danger to life or property; and

### **3. Severability**

Each provision of this Bylaw is intended to be independent of the other provisions of this Bylaw. The setting aside of any provision of this Bylaw by a court does not affect the validity of the remaining provisions of this Bylaw.

### **4. Sale, Possession and Discharge**

- (1) No person shall offer to sell, give away or trade Fireworks.
- (2) No person shall buy, hold or store Fireworks.
- (3) No person under the age of 18 years shall possess, detonate, discharge or otherwise use Fireworks.
- (4) No person being the parent or guardian of any person under the age of 18 years shall allow that person to possess, detonate, discharge or otherwise use Fireworks.
- (5) No person the age of 18 years or older shall possess, detonate, discharge or otherwise use Fireworks unless that person holds a valid Fireworks Permit.

### **5. Fireworks Permit**

- (1) A Fireworks Permit will only be issued for the following types of events:
  - (a) community events that are open to the general public, and
  - (b) film and television events requiring the use of pyrotechnics and special effects.

- (2) Each applicant for a Fireworks Permit must
  - (a) hold a valid and appropriate Fireworks Supervisor Certificate, as required by the Explosives Regulation (Canada) or its successor regulation;
  - (b) obtain and maintain public liability insurance that
    - (i) is in the name of the applicant and the Town,
    - (ii) is obtained from an insurance company registered to do business in British Columbia, and
    - (iii) provides coverage on an “occurrence basis” in an amount of at least \$2 million;
  - (c) fill out a Fireworks Permit Application Form, as prescribed from time to time by the Fire Chief;
- (3) Each Application for a Fireworks Permit must
  - (a) be made by the person proposing to possess, detonate, discharge or otherwise use the Fireworks;
  - (b) be submitted to the Fire Chief at least 14 days before the date of the event for which the Permit is required;
  - (c) include proof of a valid Fireworks Supervisor Certificate,
  - (d) include proof of the insurance described in section (2)(b); and
  - (e) include a Fireworks Safety Plan.
- (4) The Fire Chief may refuse to issue a Fireworks Permit if the applicant has previously failed to comply with any condition as set out in a Permit or this Bylaw, or has any outstanding fines levied in accordance with this Bylaw.
- (5) A Fireworks Permit is not transferable.
- (6) Subject to this Bylaw and the *Explosives Act* (Canada), the Fire Chief may grant or refuse a permit.

## **6. Conditions of Fireworks Permit**

- (1) A Fireworks Permit is subject to the following conditions, which are attached to and form part of the Fireworks Permit.

- (a) The permittee of a Fireworks Permit shall
  - (i) possess, detonate, discharge or otherwise use only those Fireworks specified in the Fireworks Permit;
  - (ii) possess, detonate, discharge or otherwise use Fireworks in accordance with the Fireworks Safety Plan; and
  - (iii) ensure that the Fireworks are possessed, detonated, discharged or otherwise used by the permittee or under the direct supervision and responsibility of the permittee.
- (b) Pursuant to Section 15(1)(d) of the *Community Charter*, authority is hereby delegated to the Fire Chief to establish conditions related to the following:
  - (i) time of activity, or
  - (ii) place of activity.
- (c) The permittee of a Fireworks Permit is only permitted to undertake the activities as outlined in the Permit in compliance with the conditions that form part of the Permit.

## **7. Site Inspection**

Before issuing any Fireworks Permit, a Fire Prevention Officer may, at the expense of the applicant, conduct one or more site inspections. The fee for such inspection or inspections is specified in Schedule “A” of this Bylaw.

## **8. Suspension and Revocation**

The Fire Chief may suspend or revoke a permit under the following circumstances:

- (a) the permittee has contravened, or authorized, permitted, or suffered the contravention of
  - (i) a provision of this Bylaw;
  - (ii) the *Fire Services Act* or its regulations, or any other applicable statute or regulations; or
  - (iii) a term or condition specified in the Fireworks Permit; or
- (b) in the opinion of the Fire Chief, weather or other site conditions present an undue risk of an Incident;

## 9. Cost Recovery

Every person who directly causes an Incident because of that person's misuse of fireworks, including but not limited to the failure to comply with this Bylaw, a Permit, or an applicable statute or regulation is liable for all expenses incurred by the Town or Fire Department. The cost shall be the current direct cost to the Town or Fire Department for supplying personnel and equipment including administration and tax, as set out in Schedule "B", attached to and forming part of the Comox Fire Prevention and Regulation Bylaw, 2007.

## 10. Offences

- (1) Any person who contravenes any provision of this Bylaw is guilty of an offence and shall, upon summary conviction thereof, be liable to a minimum penalty of \$500.00 and a maximum fine of \$10,000.00.
- (2) Each day that an offence continues shall constitute a separate offence against this Bylaw.

## 11. Municipal Ticketing

- (1) This Bylaw is designated under the provisions of section 264 of the *Community Charter* as a Bylaw that may be enforced by means of a ticket in the form prescribed, and in accordance with this Bylaw.
- (2) Bylaw Enforcement Officers and members of the Royal Canadian Mounted Police are persons designated to enforce this Bylaw pursuant to section 264(1)(b) of the *Community Charter*.
- (3) Pursuant to section 264(1)(c) of the *Community Charter*, the words or expressions set forth below in Column 1 designate the offence committed under the Bylaw section numbers appearing in Column 2 opposite the respective words or expressions.
- (4) Pursuant to section 265(1) of the *Community Charter*, but subject to section 9.3(c) of this Bylaw, the fine amount set forth below in Column 3 is the fine amount for the offence that corresponds to the section number and words or expressions set out in Columns 1 and 2 opposite the fine amount.

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine Amount
Sell, give away or trade fireworks	4(1)	\$500
Buy, hold or store fireworks	4(2)	\$500
Underage possession or use of fireworks	4(3)	\$500
Allow minor to possess or use fireworks	4(4)	\$500

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine Amount
Possess or use fireworks without permit	4(5)	\$500
Use fireworks not specified	6(1)(a)(i)	\$500
Not following Fireworks Safety Plan	6(1)(a)(ii)	\$500
Not supervised by permittee	6(1)(a)(iii)	\$500

**12. Repeal**

Comox Fireworks Regulation Bylaw, 1988 is hereby repealed.

**13. Adoption**

- (1) READ A FIRST, SECOND AND THIRD time this 19<sup>th</sup> day of September , 2012.
- (2) ADOPTED this 3<sup>rd</sup> day of October , 2012.

“Paul Ives”  
 MAYOR

“Richard Kanigan”  
 CORPORATE OFFICER

**SCHEDULE “A”**

Site Inspection Fee \$50 per hour per Fire Prevention Officer  
 (minimum 2 hours)